

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND KASHMIR AT  
SRINAGAR**

O.W.P (PIL) No. \_\_\_\_\_ / 2015

**In the case of:**

**Karwani Islami**

*Through its Chairman*

*Sheikh Gulam Rasool Hami*

*Age about **38** years*

*S/O Gh Ahmad Sheikh*

*R/O Haripora Kangan*

*Dist- Ganderbal.*

*At Present HMT Srinagar*

**..Petitioner**

**Versus**

1. *State of Jammu and Kashmir through Chief Secretary civil secretariat Srinagar*
2. *Principal Secretary Home Jammu and Kashmir Civil secretariat Srinagar.*
3. *Director General of Police Jammu and Kashmir at Srinagar .*
4. *Divisional commissioner Kashmir at Srinagar.*
5. *Inspector General of police Kashmir range*

**...Respondents**

**In the matter of:**

*Public interest litigation under Article 226 of the Constitution of India read with section 103 of the Jammu and Kashmir constitution for issuance of writ of **Mandamus** or any other writ, order or direction though not prayed for.*

*The Petitioner most respectfully submits as under:-*

1. *That the petitioner is registered society and has been registered vide no 5949-S Of 2010 Dated 23/12/2010 under the societies registration act of*

1998 (1941AD) . Copy of certificate of registration is filed here with the petition and is marked as **Annexure A**

2. *The instant petition is filed against the sale and consumption of liquor as the state of Jammu and Kashmir failed to take necessary steps for prohibition of sale and consumption of liquor in the state of Jammu and Kashmir.*
3. *That due to consumption and sale of liquor in state of Jammu and Kashmir has not only affected the health of the residents of the state but also is responsible for various social evils and day in and day out many human beings lose their lives due to drunk driving, modesty of women folk is ravished and has become one of the reasons for social disorder in the society.*
4. *That drinking alcohol ruins the individual physically and mentally and a drink addict loses his sense of propriety and decency, as alcohol is freely available at different places in state and the common masses have easily access to such places.*
5. *That the petitioner seeks complete prohibition of sale and consumption of liquor on following grounds and the grounds are taken independently without prejudice to one another*

## **GROUND**

a) It has been enshrined in part iv of Indian constitution under Article **47** that state shall endeavor to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health, Article **38** of constitution of India imposes obligation on state that states shall secure a social order for the promotion of welfare of people and same cannot be achieved without good public health it is the bounden duty and obligation of the state of Jammu and Kashmir to take necessary steps to curb the menace of liquor which has far-reaching ill effects to the health and wellbeing of the population of Jammu and Kashmir state as such the petitioner seeks indulgence of this Hon'ble court.

b) That state of Jammu and Kashmir has adopted its own constitution called as "The constitution of Jammu and Kashmir" which came into force on twenty sixth day of January 1957 in which

it has been provided under section **24** of the constitution which reads as under

**“Duty of the state to improve public health;-** The state shall make every effort to safeguard and promote the health of the people..” and thus this section further imposes obligation to state of Jammu and Kashmir to curb sale and consumption of liquor, which is responsible for deterioration of public health, as the state has failed to take necessary measures despite the various representations filed by the petitioner copies of news items carried by daily locals from time to time are annexed herewith the public interest litigation and are marked as **Annexure B** collectively .

c) That while obeying the duty casted upon the states under Article 47 Of constitution of India the various states including state of **Gujarat, Nagaland, Manipur, Union territory of Lakshadweep** and Kerala have passed necessary laws for banning the sale and consumption of liquor, the state of Jammu and Kashmir has failed to take the necessary steps which constrained the petitioner to invoke the

*jurisdiction of this Hon'ble court for redressal of the same.*

d) *That It has been held by the Hon'ble apex court in **CESC Ltd. V/S Subhash Chandra Bose (AIR 1992 SC 573)** while relying on international covenants and concluded that right to health is a fundamental right and forms part and parcel of Article 21 of Constitution of India, it has been time and again proved scientifically that consumption of liquor has devastating effects on health and mental wellbeing of an individual the state of Jammu and Kashmir by not enacting necessary laws and steps to stop sale and consumption of liquor which violates fundamental right under Article 21 of constitution of India.*

e) *That Mr. M.K GHANDI while expressing his views on total prohibition of liquor in his newspaper HARIJAN on 21-09-1947 has expressed **"...it is criminal to spent the income from the sale of intoxicants on the educations of the nation's children or other public services, the government must overcome the temptation of using such***

**revenue for nation building purpose, experience has shown that the moral and physical gain of the abstainer more than makes up for the loss of this tainted revenue. If we eradicate the evil, we will easily find other ways and means of increasing the nations income.”** his views has not been taken care of despite state being part of union of India so again duty was casted up on the state to eliminate such type of menace from the society to overcome the ill effects of the liquor.

f) The petitioner also submitted a draft legislation before the state Government but till date no action has been taken by the state rather state has kept blind eye on this issue and due to inaction of state sale of liquor and consumption is freely available.

g) That the inaction on state part of government can be witnessed from a liquor shop situated at Batwara Srinagar between educational institution (Central University study centre and children Hospital G. P. Panth and the public especially young generation have easy access

*to such kind of menace and get addicted this addiction has far-reaching consequence on health and wellbeing of youth of nation.*

*h) That the constitution of India under Article 19g guarantees to practice any profession or to carry on any occupation trade or business but this freedom is not absolute and is subject to certain reasonable restrictions, the state of Jammu and Kashmir is Muslim majority state consisting of more than 70% of Muslim population, carrying of trade of liquor in the state also violates the freedom of religion guaranteed under Article 25 of constitution of India as consuming of liquor is prohibited in all religions particularly the religion of Islam, by establishing/opening of liquor shops in such areas which is Muslim dominant hurts the religious sentiments of majority community and their are likelihood of breach of public order.*

*i) That the state of Jammu and Kashmir is prone to accidents and it has been analyzed statically that many accidents are caused due to intake of alcohol by drivers resultantly loss of precious lives in different parts of states ,it was the*

*obligation of the state to protect life of citizens which state government has failed due to the inaction on their part to bring the necessary laws to control consumption and sale of liquor, copy of statistical report is filed herewith the public interest litigation and is marked as **Annexure C.***

- j) That if any law permits sale and consumption of liquor violates religious sentiments of petitioner and majority of people and are ultra virus being violative of Article 25 of Indian constitution as such are liable to be struck down being unconstitutional.*
- k) that the consumption and sale of liquor also effects the social fabric of society such persons who are habitual drunk addicts are involved in indoor valance and outdoor crimes and are responsible for many social evils which this Hon'ble court has to take care of in the interest of justice.*
- l) That the petitioner is filing the instant petition out of own personal expenses and no organization has provide any assistance and fee of the counsel is borne by the petitioner out*



*of his own packet and fee has been paid in advance to the counsel.*

6. *That as per the knowledge of the petitioner no such petition of like nature has been filed before this Hon'ble court not is pending such petition.*
7. *That the reports of the local dailies have been filed with this petition and have been verified by the petitioner himself and other documents supported this PIL.*

***For the reasons stated above the Petitioner seeks the issuance of the following writ or directions.***

- i. *A Writ in the nature of mandamus be issued in favour of the petitioner and against the respondents commanding them to close all such shops and other establishments wherein liquor is sold and further ensure that those involved in this business be rehabilitated by providing alternative means of livelihood.*
- ii. *That writ in nature of mandamus be issued in favour of the petitioner and against the respondents commanding them to provide necessary counseling to those who have been victim of this drink addition.*
- iii. *Any other Writ, Order or Direction as this Hon'ble Court deems just and proper may be issued in favour of the Petitioner and against the respondents.*

**PUBLIC INTEREST LITIGATION  
THROUGH COUNSELS**

**FIRDOUS PARRAY, ZAHOOR MALIK  
& MUDASIR NAQSHBANDI  
ADVOCATES**

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND  
KASHMIR AT SRINAGAR**

***In the Case of: - KARWANI ISLAMI V/S STATE AND ORS.***

***In the matter of:***

***I N D E X***

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***PUBLIC INTEREST***

***LITIGATION THROUGH COUNSELS***

**FIRDOUS PARAY, ZAHOOR MALIK &  
MUDASIR NAQSHBANDI  
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**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND  
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***In the case of:***

**KARWANI ISLAMI V/S STATE AND ORS.**

**MEMO OF PARTIES**

***Karwani islami***

*Through its Chairman*

*Sheikh Gulam Rasool Hami*

*Age about **38** years*

*S/O Gh Ahmad Sheikh*

*R/O Haripora Kangan*

*Dist- Ganderbal.*

*At present HMT Srinagar*

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***Versus***

1. *State of Jammu and Kashmir through Chief Secretary civil secretariat Srinagar*
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**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND KASHMIR AT  
SRINAGAR**

**In the case of:**

**KARWANI ISLAMI V/S STATE AND ORS.**

**In the matter of: SYNOPSIS**

*That the petitioner is registered society and has been registered vide no 5949-S Of 2010 Dated 23/12/2010 under the societies registration act of 1998 (1941AD) . The instant petition is filed against the sale and consumption of liquor as the state of Jammu and Kashmir failed to take necessary steps for prohibition of sale and consumption of liquor in the state of Jammu and Kashmir. That due to consumption and sale of liquor in state of Jammu and Kashmir has not only affected the health of the residents of the state but also is responsible for various social evils and day in and day out many human beings lose their lives due to drunk driving, modesty of women folk is ravished and has become one of the reasons for social disorder in the society. That the petitioner seeks complete prohibition of sale and consumption of liquor on following grounds and the grounds .. It has been enshrined in part iv of Indian constitution under Article **47** that state shall endeavor to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health, Article **38** of constitution of India imposes obligation on state that states shall secure a social order for the promotion of welfare of people and same cannot be achieved without good public health it is the bounden duty and obligation of the state of Jammu and Kashmir to take necessary steps to curb the menace of liquor which has far-reaching ill effects to the health and wellbeing of the population of Jammu and Kashmir state as such the petitioner seeks indulgence of this Hon'ble court. That state of Jammu and Kashmir has adopted its own constitution called as "The constitution of Jammu and Kashmir" which came into force on twenty sixth day of January 1957 in which it has been provided under section **24** of the constitution which reads as under*

**"Duty of the state to improve public health;-** *The state shall make every effort to safeguard and promote the health of the people.." and thus this section further imposes obligation to state of Jammu and Kashmir to curb sale and consumption of liquor, which is responsible for deterioration of public health, as the state has failed to take necessary measures . That while obeying the duty casted upon the states under Article 47 Of constitution of India the various states including state of **Gujarat, Nagaland, Manipur, Union territory of Lakshadweep** and Kerala have passed necessary laws for banning the sale and consumption of liquor, the state of Jammu and Kashmir has failed to take the necessary steps which constrained the petitioner to invoke the jurisdiction of this Hon'ble court for redressal of the same. That It has been held by the Hon'ble apex court in **CESC Ltd. V/S Subhash Chandra Bose (AIR 1992 SC 573)** while relying on international covenants and concluded that right to health is a fundamental right and forms part and parcel of Article 21 of Constitution of India, it has been time and again proved scientifically that consumption of liquor has devastating effects on health and mental wellbeing of an individual the state of Jammu and Kashmir by not enacting necessary laws and steps to stop sale and consumption of liquor which violates fundamental right under Article 21 of constitution of India That Mr. M.K GHANDI while expressing his views on total prohibition of liquor in his newspaper HARIJAN on 21-09-1947 has expressed "**...it is criminal to spent the income from the sale of intoxicants on the educations of the nation's children or other public services, the government must overcome the temptation of using such revenue for nation building purpose, experience has shown that the moral and physical gain of the abstainer more than makes up for the loss of this tainted revenue. If we eradicate the evil, we will easily find other ways and means of increasing the nations income.**" his views has not been taken care of despite state being part of union of India so again duty was casted up on the state to eliminate such type of menace from the society to overcome the ill effects of the liquor. That the inaction on state part of government can be witnessed from a liquor shop situated at Batwara Srinagar between educational institution (Central University study centre and children Hospital G. P. Panth and the public especially young generation have easy access to such kind of menace and get addicted this addiction has far-reaching consequence on health and wellbeing of youth of nation.. Hence this public interest litigation petition*

**PUBLIC INTEREST LITIGATION  
THROUGH COUNSEL**

**FIRDOUS PARAY, ZAHOR MALIK &  
MUDASIR NAQASHBANDI  
ADVOCATES**

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND  
KASHMIR AT SRINAGAR**

***In the case of: KARWANI ISLAMI V/S STATE AND ORS.***

***In the matter of: SEQUENCE OF DATES AND  
EVENTS***

<b>S.N o</b>	<b>Dates</b>	<b>Events</b>
<i>1.</i>	*****	*****

**PUBLIC INTEREST LITIGATION  
THROUGH COUNSEL**

**FIRDOUS PARAY, ZAHOOR MALIK &  
MUDASIR NAQSHBANDI  
ADVOCATES**

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND  
KASHMIR AT SRINAGAR**

***In the case of:***

***KARWANI ISLAMI V/S STATE AND ORS.***

***In the matter of***    *Affidavit*

*I, , Sheikh Gh Rassol Hami Aged about 38 years S/O Gh Ahmad Sheikh    R/O Haripora Kangan At present HMT Srinagar do hereby solemnly affirm and declare on oath as under*

- 1. That I am of the Petitioner-Applicant in the above titled Writ Petition.*
- 2. That the petitioner has no personal interest in this petition and if tomorrow anything found against the petitioner the petitioner will be ready to abide by any decision passed by this Hon'ble court and bear the costs as well.*
- 3. That the legal averments made therein are based on legal information received in this regard believed to be true and correct. Hence this affidavit.*

*Deponent .*

**VERIFICATION**

*Verified that the averments of this affidavit are true and correct and nothing has been concealed or suppressed.*

*Deponent.*

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND  
KASHMIR AT SRINAGAR**

***In the case of:***

***KARWANI ISLAMI V/S STATE AND ORS.***

***In the matter of:*** Affidavit in support of Petition.

*I, Sheikh Gh Rassol Hami Aged about 38 years S/O Gh Ahmad Sheikh R/O Haripora Kangan At Present HMT Srinagar do hereby solemnly affirm and declare on oath as under*

- 1. That I am the Petitioner in the above titled Petition.*
- 2. That I have gone through the public interest litigation above titled prepared under my instructions by my counsel and say that the paras one to end made therein are true and correct to the best of my knowledge.*
- 3. That the legal averments made therein are based on legal information received in this regard believed to be true and correct. Hence this affidavit.*

*Deponent.*

**VERIFICATION**

*Verified that the averments of this affidavit are true and correct and nothing has been concealed or suppressed.*

*Deponent.*

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND  
KASHMIR AT SRINAGAR**

I.A. No. \_\_\_\_\_/2015

in

O .W.P. No \_\_\_\_\_/ 2015

**In the case of :**

**Karwani islami**

Through its Chairman

Sheikh Gulam Rasool Hami

Age about **38** years

S/O Gh Ahmad Sheikh

R/O Haripora Kangan

Dist- Ganderbal.

At present HMT Srinagar

**..Applicant**

**Versus**

1. State of Jammu and Kashmir through Chief Secretary civil secretariat Srinagar
2. Principal Secretary Home Jammu and Kashmir Civil secretariat Srinagar.
3. Director General of Police Jammu and Kashmir at Srinagar.
4. Divisional commissioner Kashmir at Srinagar.
5. Inspector General of police Kashmir range

**...Non applicants**

**In the matter of:** Application seeking ad-interim relief

**May it please your Lordships:**

The Petitioner -Applicant most humbly submits as under:-

1. That the Applicant has preferred public interest litigation in this Hon'ble Court on a variety of grounds urged in the public interest litigation. The said public interest litigation is pending adjudication before this Hon'ble Court.



2. *That the public interest litigation of the Applicant is legally firm and strong and as such is highly likely to succeed on merits.*
3. *That the Applicant have prima-facie case in their favour in which balance of convenience also lies in their favour and the Applicant is sure to succeed in the matter before the Hon'ble Court.*
4. *That in case interim relief as prayed in this Application is not granted in favour of Applicant, the Applicant will suffer an irreparable loss which can not be compensated by any means whatsoever.*
5. *That the Applicant hereby crave leave to refer to, rely upon and adopt in extenso the detailed submissions, averments and the contentions made in the writ petition for the purposes of disposal of this Application as well.*
6. *That this Application of the Applicant is supported by duly sworn affidavit.*

*In the premises, it is humbly prayed that till disposal of the Public interest litigation, the non-applicants be directed to file the status report visa vis the steps taken to curb the sale and consumption of liquor*

*For which act of kindness the Petitioner-Applicant as is duty bound by law shall ever pray.*

***Applicant through Counsel***

**FIRDOUS PARAY, ZAHOOR MALIK &  
MUDASIR NAQASHBANDI Advocates**

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND  
KASHMIR AT SRINAGAR**

***In the case of:***

***KARWANI ISLAMI V/S STATE AND ORS.***

***In the matter of:*** Affidavit in support of INTERIM APP.

*I, Sheikh Gh Rassol Hami Aged about 38 years S/O Gh Ahmad Sheikh R/O Haripora Kangan At present HMT Srinagar do hereby solemnly affirm and declare on oath as under*

- 1. That I am the Petitioner in the above titled Petition.*
- 2. That I have gone through the interim application above titled prepared under my instructions by my counsel and say that the paras one to end made therein are true and correct to the best of my knowledge.*
- 3. That the legal averments made therein are based on legal information received in this regard believed to be true and correct. Hence this affidavit.*

*Deponent .*

**VERIFICATION**

*Verified that the averments of this affidavit are true and correct and nothing has been concealed or suppressed.*

*Deponent.*